

Message Text

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ACTION EUR-25

INFO OCT-01 ADP-00 CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00

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INR-10 L-03 NSC-10 PA-03 RSC-01 PRS-01 SS-15 RSR-01

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FM USMISSION BERLIN

TO AMEMBASSY BONN IMMEDIATE

INFO SECSTATE WASHDC IMMEDIATE 1788

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

C O N F I D E N T I A L BERLIN 0807

E. O. 11652: GDS

TAGS: PGOV, WB, GE

SUBJECT: DRAFT BK/ L ON SENAT- GDR AGREEMENTS

REF: BONN 5676

1. SUMMARY: SENAT DESIRE TO MODIFY SUBSTANTIALLY
TRIPARTITE TEXT OF SENAT- GDR AGREEMENTS BK/ L MAY CAUSE
SUBSTANTIAL DELAY IN ISSUANCE OF BK/ L AND MAY THEREBY
HOLD UP ALLIED APPROVAL FOR CONCLUSION OF SENAT- GDR
REFUSE DUMP ARRANGEMENT. MISSION HAS OFFERED
MINOR MODIFICATIONS IN EFFORT TO RESOLVE DIFFERING
POSITIONS WITHOUT REOPENING DISCUSSION IN BONN GROUP
AND CAPITALS. END SUMMARY.

2. AT END OF APRIL, ALLIES PASSED SENAT COPY OF DRAFT
BK/ L, TEXT OF WHICH HAD BEEN APPROVED TRIPARTITELY BY
EMBASSIES (REFTEL) IN EXPECTATION THAT IT COULD BE
ISSUED ROUTINELY, (SENAT HAD HAD SUBSTANTIALLY IDENTICAL
FIRST DRAFT FOR MONTH WITHOUT INDICATING PROBLEMS).
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ALLIED AGREEMENT TO GROSS ZIETHEN REFUSE DUMP ARRANGE-
MENT WITH GDR WOULD HAVE BEEN CONSIDERED TO BE SUBSUMED
WITHIN BLANKET BK/ L. SENAT HAD COMPLETED NEGOTIATIONS
WITH GDR AND HAD INDICATED STRONG DESIRE TO CONCLUDE

AGREEMENT BY MAY 1.

3. WITHOUT PROVIDING FULL EXPLANATION OF SENAT OBJECTIVES, HOWEVER, SENAT OFFICIAL (KUNZE) CIRCULATED TO MISSIONS MAY 4. REDRAFT OF BK/ L INTRODUCING SUBSTANTIAL CHANGES IN PREAMBULAR LANGUAGE. SENAT TEXT WOULD BEGIN:
" PROCEEDING FROM THE PROVISIONS OF BKC/ L(71)2, THE ALLIED KOMMANDATURA COMMUNICATES THE FOLLOWING:

"1. THE BERLIN SENAT AGREED IN IMPLEMENTING AND SUPPLEMENTING PART IIC, ANNEX III, PARAGRAPHS 1, 2, AND 3 OF THE QUADRIpartite AGREEMENT OF SEPTEMBER 3, 1971 TO IMPROVE COMMUNICATIONS

"2. IT COULD BE USEFUL FOR BERLIN TO SOLVE CERTAIN QUESTIONS OF A PURELY LOCAL TYPE IN THAT CATEGORY THROUGH AGREEMENTS (VEREINBARUNGEN) BETWEEN THE INTERESTED SIDES IN WHICH THE POSSIBILITY OF AN AGREEMENT ON THE EXTENSION OF TREATIES (ABKOMMEN) AND AGREEMENTS (REGELUNGEN) BETWEEN THE FRG AND EAST GERMAN AUTHORITIES TO THE WESTERN SECTORS OF BERLIN IS NOT FORESEEN.

"3. THE ALLIED KOMMANDATURA HAS TO THAT EXTENT NO OBJECTION IN PRINCIPLE TO APPROPRIATE CONTACTS BETWEEN THE AUTHORITIES, SERVICES, AND ORGANIZATIONS LOCATED RESPECTIVELY IN THE WESTERN SECTORS AND IN EAST BERLIN." REMAINDER OF SENAT DRAFT FOLLOWS FINAL TWO PARAGRAPHS OF TRIPARTITE TEXT.

4. FRENCH AND BRITISH MISSIONS HAVE FORWARDED SENAT DRAFT TO EMBASSIES FOR CONSIDERATION. FRENCH MISSION CONSIDERS THAT SENAT DRAFT WOULD REQUIRE MAJOR NEW DRAFTING EXERCISE THAT COULD DELAY ISSUANCE OF BK/ L AND CONCLUSION OF GARBAGE AGREEMENT INDEFINITELY. THERE ALSO APPEARS CERTAIN RELUCTANCE ON PART OF FRENCH AT LEAST TO " NEGOTIATE" DIRECTLY WITH SENAT ON TEXT OF BK/ L, WHICH, THEY POINT OUT, IS ALLIED INSTRUCTION CONFIDENTIAL

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TO SENAT. FRENCH ARE NOW GRAVITATING TO POSITION THAT SEPARATE BK/ L SHOULD BE ISSUED FOR EACH SENAT- GDR AGREEMENT, A PRACTICE WHICH WOULD REMOVE ALLIED FLEXIBILITY AS TO MANNER IN WHICH ALLIED APPROVAL CONVEYED AND WOULD UNDERMINE JOINT ALLIED- SENAT OBJECTIVE OF KEEPING SOME HAND ON FREE- LANCE NEGOTIATIONS.

5. AS WE UNDERSTAND IT, SENAT' S PRIMARY CONCERN IN SUGGESTING NEW LANGUAGE IS IDENTICAL WITH ALLIED OBJECTIVES. SENAT HAS EXPLAINED THAT BASIC FLAW IN TRIPARTITE TEXT IS THAT IT MAY BE READ BY THOSE SO INCLINED AS INVITING INITIATION OF SUBSTANTIAL NUMBER OF SENAT- GDR NEGOTIATIONS. IN THIS CONTEXT THEY POINT

SPECIFICALLY TO INCLUSION OF CONCEPT OF ARRANGEMENTS IN ECONOMIC FIELD, WHICH THEY CONSIDER TO BE QUITE BROAD. THEY DESIRE, THEREFORE, TO REMOVE AT LEAST REFERENCE TO ECONOMIC ARRANGEMENTS AND TO INTRODUCE REFERENCE TO BKC/ L(71)2, WHICH AUTHORIZED CONCLUSION OF SENAT- GDR ARRANGEMENTS THAT FORM PART OF QA. SENAT EXPLAINS THAT, IN THE PROTOCOL NOTE TO THE ARRANGEMENT FOR THE EXCHANGE OF TERRITORY, GDR AND SENAT AGREED TO IMPROVE COMMUNICATIONS AND TO CARRY OUT NECESSARY NEGOTIATIONS BETWEEN APPROPRIATE OFFICES. IN SENAT' S VIEW THIS WOULD INDICATE THAT ESSENTIALLY ONLY TYPE OF PERMISSIBLE SENAT- GDR NEGOTIATION WOULD BE THAT IN WHICH IMPROVEMENTS OF COMMUNICATION AS FORESEEN IN QA WERE SOUGHT.

6. SENAT NOTES THAT, PRUSUANT TO ARTICLE 7 OF FRG- GDR BASIC TREATY, FRG WILL BE NEGOTIATING WIDE RANGE OF AGREEMENTS WITH GDR WHICH MAY, ON CASE- BY- CASE BASIS, BE EXTENDED TO BERLIN. SENAT LANGUAGE, THEREFORE, WOULD BE INTENDED FURTHER TO WARN SENATORS OFF AREAS COVERED BY BASIC TREATY, IN WHICH FRG WILL BE SEEKING TO REPRESENT WEST BERLIN' S INTERESTS AND IN WHICH GDR WILL NO DOUBT BE TRYING TO SPLIT SENAT AWAY FROM FRG. SENAT' S POINT IS THAT IF SOME EXPLICIT REFERENCE TO BASIC TREATY IS NOT INCLUDED, GDR WILL BE MORE ADAMANT IN OPPOSING INCLUSION OF WEST BERLIN IN FUTURE AGREEMENTS WITH FRG, AND SENATORS WILL BE TEMPTED TO TRY NEGOTIATIONS ON THEIR OWN WITH GDR IN INSTANCES IN WHICH FRG HAS BEEN TRYING UNSUCCESSFULLY TO
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REPRESENT BERLIN INTERESTS.

7 WE FEEL THERE IS MERIT IN SENAT ARGUMENTS, BUT QUESTION WHETHER AT THIS STAGE EXERCISE SHOULD BE THROWN BACK TO EARLY DRAFTING STAGE FOR WHAT ARE ESSENTIALLY MARGINAL IMPROVEMENTS. FOR EXAMPLE, WE CONSIDER THAT TRIPARTITE TEXT ALREADY CONTAINS HEART OF SENAT IDEA OF WARNING OPPORTUNISTIC BERLIN OFFICIALS OFF TERRITORY PREEMPTED BY FRG SINCE IT RESTRICTS AREA FOR FUTURE SENAT- GDR ARRANGEMENTS TO " QUESTIONS OF A PURELY LOCAL CHARACTER", FURTHERMORE, SENAT GOES TOO FAR IN SEEKING TO CATEGORIZE ALL FUTURE NEGOTIATIONS WITH GDR AS FALLING WITHIN IMPROVEMENT - OF- COMMUNICATIONS AREA FORESEEN BY QA. FRENCH HAVE STRONGLY OPPOSED CONCEPT OF QA AS OPEN- ENDED DOCUMENT, AND THESE MAY BE TECHNICAL SUBJECTS IN FUTURE THAT MERIT NEGOTIATION BUT COULD NOT LOGICALLY BE CONSIDERED " COMMUNICATION- HOWEVER, WE BELIEVE CERTAIN OF SENAT' S POINTS COULD BE EASILY ACCOMMODATED BY DELETING WORD " ECONOMIC" AND INSERTING REFERENCE TO BKC/ L(71)2 IN FIRST SENTENCE OF TRIPARTITE TEXT. THAT SENTENCE WOULD THEN READ: " WITHOUT PREJUDICE TO THE PROVISIONS OF

BKC/ L(71)1 AND BKC/ L(71)2, THE ALLIED KOMMANDATURA IS OF THE VIEW THAT IT MIGHT BE USEFUL FOR BERLIN TO HAVE CERTAIN QUESTIONS OF A PURELY LOCAL CHARACTER, IN THE TECHNICAL OR ADMINISTRATIVE FIELDS, SOLVED IN A PRACTICAL MANNER BY MEANS OF ARRANGEMENTS BETWEEN THE INTERESTED PARTIES."

8. UK MISSION SUPPORTS ABOVE MODIFICATIONS AS BEST WAY TO TIDY UP THIS PROJECT. WE WOULD PROPOSE TO ADVISE SENAT THAT FURTHER REVISIONS OF TRIPARTITE TEXT, WOULD REQUIRE AT LEAST SOME WEEKS TO COMPLETE WITH CORRESPONDING DELAYING EFFECT UPON CONCLUSION OF REFUSE DUMP AGREEMENT. WE WOULD HOPE THIS WOULD ENCOURAGE ACCEPTANCE OF COMPROMISE TEXT IN PARA 7. KLEIN

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